

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION

CRIMINAL NO. 4:96CR56

UNITED STATES OF AMERICA)

)

)

VS.)

ORDER

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TIMOTHY LAMONT RUFF)

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THIS MATTER is before the Court on the Defendant's *pro se* motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b). The motion is frivolous and is denied.

On March 26, 1997, the undersigned sentenced the Defendant to 360 months imprisonment based on his guilty pleas to the charges contained in the indictment filed herein. **Judgment in a Criminal Case, filed April 14, 1997.** The Defendant appealed his case and the Fourth Circuit affirmed his conviction and sentence. ***United States v. Moses, 135 F.3d 771 (table), 1998 WL 67795 (4th Cir. 1998).*** During the 10 years since Defendant's conviction, he has submitted various frivolous motions, including two motions to vacate, which sought to have his conviction and sentence

overturned. The instant motion made pursuant to Rule 60(b) alleges that his criminal judgment was obtained by fraud making it void as a matter of law due to the fact that the Government failed to establish jurisdiction of the crime charged. **Defendant's Motion for Relief, at 1-2.** He also claims that he did not commit the crimes involved on federal territory and, therefore, this Court has no jurisdiction. *Id.* Defendant's motion is clearly frivolous, untimely, and filed for no reason other than to harass the Court. In fact, it appears the motion is a *pro forma* pleading, containing blanks for the prisoner to insert the pertinent information, and requiring little, if any, effort to complete or thought as to its merit.

Prisoners do not have an absolute and unconditional right of access to the courts in order to prosecute frivolous, malicious, abusive or vexatious motions. ***Demos v. Keating*, 33 F. App'x 918 (10th Cir. 2002); *Tinker v. Hanks*, 255 F.3d 444, 445 (7th Cir. 2001); *In re Vincent*, 105 F.3d 943 (4th Cir. 1997).** The Defendant is hereby warned that future frivolous filings will result in the imposition of a pre-filing review system. ***Vestal v. Clinton*, 106 F.3d 553 (4th Cir. 1997).** If such a system is placed in effect, pleadings presented to the Court which are not made in good faith and which do not contain substance, will be summarily dismissed as frivolous. ***Foley v. Fix*,**

106 F.3d 556 (4th Cir. 1997); *In re Head*, 19 F.3d 1429 (table), 1994 WL 118464 (4th Cir. 1994). Thereafter, if such writings persist, the pre-filing system may be modified to include an injunction from filings. **See, 28 U.S.C. § 1651(a); *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984).**

IT IS, THEREFORE, ORDERED that the Defendant's motion for relief from judgment is hereby **DENIED**.

Signed: July 18, 2008



Lacy H. Thornburg
United States District Judge

